

APPEALS POLICY

This policy governs appeals to the Board of Health pursuant to Metropolitan Code of Laws § 2.36.140.

A. DEFINITIONS

1. “Affected person”.
A person appealing a decision of the Chief Medical Director must demonstrate that he or she has suffered a distinct and palpable injury; that the injury was caused by the challenged conduct; and that the injury is apt to be redressed by a remedy the Board of Health may grant.
2. “Filing”. In order to be considered “filed”, the complaint and other documents must be RECEIVED by the Secretary to the Board of Health. Filing of the complaint may be accomplished by emailing, faxing, mailing or hand-delivering the complaint to the Secretary; filing of all other documents must be accomplished by mail or hand-delivery.

B. FILING A COMPLAINT

Any person affected by a decision of the Chief Medical Director of the Department of Health may file a request for a hearing before the Board of Health.

Any person requesting a hearing before the Board of Health has only thirty (30) days in which to file the request. If more than thirty (30) days has passed since the decision of the Chief Medical Director, the request for a hearing will be administratively denied.

The request for a hearing shall be in the form of an informal written complaint. The complaint must state:

- 1) the action or decision by the Chief Medical Director that has affected the complainant
- 2) the date of that action or decision
- 3) how the complainant is affected by that action or decision
- 4) the remedy sought by the complainant.

C. GRANTING A REQUEST FOR HEARING

The Secretary to the Board of Health shall send all properly filed complaints to the Board of Health. The Board shall determine, in a properly noticed public meeting, whether a complaint meets the requirements of MCL 2.36.140 and this Policy. If all requirements are met, the Board shall either grant the complainant a hearing before the Board, or refer the complainant to an Administrative Law Judge for hearing. If the Board grants the complainant a hearing before the Board, the Board shall schedule the hearing at that time and decide upon the time to be allotted for the hearing. The hearing may be set for a regularly scheduled Board meeting, or may be set specially.

D. NOTICE OF HEARING DATE / TIME ALLOTTED FOR HEARING

Upon the selection of a hearing date and the time allotment by the Board, a notice of such shall be sent to the complainant. Under no circumstances shall the complainant receive notice of the hearing later than seven days prior to the meeting.

E. FILING OF ALL OTHER DOCUMENTS

All documents other than the original complaint shall be filed with the Secretary to the Board of Health by mail or hand-delivery only. Any document filed with any other person or in any other manner will not become part of the record to be considered by the Board. Any document received by the Secretary later than seven days before the hearing will not be mailed to the Board, but will be hand-delivered to it on the day of the hearing.

F. REPRESENTATION OF THE COMPLAINANT

The complainant may appear on his own behalf or may be represented by a licensed attorney of his own choosing and at his own expense.

G. EX PARTE COMMUNICATIONS

No member of the Board of Health shall communicate with any party or person, regarding any issue in the complaint, while the complaint is pending, unless all parties have an opportunity to participate in the communication.

H. HEARING PROCEDURE FOR COMPLAINTS HEARD BY THE BOARD OF HEALTH

- (1) The complainant shall address the Board first. At this time, complainant may introduce any relevant and competent evidence bearing on the issue. The complainant shall abide by the time allotted him, and any evidence presented after that time has passed shall not be considered by the Board.
- (2) A representative of the Department of Health shall address the Board second. At this time, the Board may introduce any relevant or competent evidence bearing on the issue. The Department shall abide by the time allotted it, and any evidence presented after that time has passed shall not be considered by the Board.
- (3) The Board shall weigh and consider the evidence presented to it, along with the complaint and any other documents filed by the complainant or the Department.
- (4) The Board shall vote to uphold or overturn the Chief Medical Director's decision. The Board may vote immediately after the hearing, or the Board may schedule another public meeting in which to deliberate and vote.

- (5) The concurring vote of three members of the Board shall be necessary to amend or set aside any order, requirement, decision, or determination of the Chief Medical Director.
- (6) The Board's decision shall be in the form of a resolution, which shall affirm, amend, or set aside the decision of the Chief Medical Director.

I. REHEARING

The complainant or Department shall request a rehearing in written form. The request for a rehearing shall describe any new evidence that could not reasonably be presented at the previous hearing. The Board shall vote on the request for rehearing at a regularly scheduled public meeting, or a specially set public meeting. Three affirmative votes are required before a request for rehearing can be granted. If a request for rehearing is granted, the Board shall notify the party of the rehearing date.

This Appeals Policy shall govern rehearings.